



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,066	10/29/2003	David S. Benco	LUTZ 2 00212	5949
48116	7590	09/04/2007		
FAY SHARPE/LUCENT 1100 SUPERIOR AVE SEVENTH FLOOR CLEVELAND, OH 44114			EXAMINER EKONG, EMEM	
			ART UNIT	PAPER NUMBER
			2617	
			MAIL DATE	DELIVERY MODE
			09/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/696,066

Applicant(s)

BENCO ET AL.

Examiner

EMEM EKONG

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant's explanation of the claimed invention is well appreciated, however, after careful consideration, the Applicant's arguments are not persuasive. Pepper discloses Applicant's limitations, however, Pepper fails to disclose screening calls based on a current cost of message units. Hartmaier discloses monitoring subscriber's calls and determining the cost of the call and appropriately reducing the account balance (par. 9 lines 3-5, par. 25 lines 11-12, and par. 79-82). Hartmaier also discloses monitoring device 904 (see fig. 9), a call-monitoring module 110 (see fig. 1) that calculates the cost of a call and causes a warning signal to be initiated when the cost for the call approaches a threshold, the purpose of the call monitoring module containing a rating engine which determines access fee (either by month, week or day), the per minute charges for air time usage (pars. 79, and 82), is clearly for rating calls used for call screening (see abstract, and pars. 72, and 87). Hartmaier further discloses restricting calls to/from certain telephone numbers, certain calling zones, or certain geographical boundaries (par. 9 lines 17-19, and pars. 87-88). Certainly, Hartmaier determines the cost of calls to/from certain telephone numbers, certain calling zones, or certain geographical boundaries, and based on cost, restriction is performed, therefore, Hartmaier discloses applicant's limitation of screening calls based on a current cost of message units.

With regards to the claims of which Wise was relied on, the Applicant's limitation stated, "processing the call request according to the current ration station", and not processing the call request according to a current cost of message units as stated in applicant's argument. The Examiner respectfully believes that based on the explanation given on page 8 of the Applicant's specification that Wise discloses Applicant's limitations. Wise further discloses screening incoming and outgoing calls (col. 1 lines 20-23, col. 2 line 23, and col. 3 lines 30-42), and the use of cellular phone for incoming and outgoing call screening is also well known in the art. Therefore the argued limitations as recited in claims are the same as disclosed by the reference or the limitations are written broad such that they read on the cited art.



LESTER G. KINCAID
SUPERVISORY PRIMARY EXAMINER